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FISCAL IMPACT STATEMENT

LS 6774

BILL NUMBER: HB 1102

NOTE PREPARED: Jan 26, 2006

BILL AMENDED: Jan 23, 2006

SUBJECT: Local Government Matters.

FIRST AUTHOR: Rep. Ayres

FIRST SPONSOR: Sen. C Lawson

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill consists of the following provisions:

SBA Annual Reports: The bill specifies that the annual reports filed with the State Board of Accounts (SBA) by governmental units must show the business addresses of officers and employees. (Current law specifies only that the "addresses" must be included.)

Notice Publication Procedures: This bill provides that in the case of a notice that must be published by a city or town under the statute concerning publication procedures, the city or town must publish the notice two times, at least one week apart, with the second publication made at least seven days before the event or action for which the notice is provided.

County Auditor Notices: This bill provides that if a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county and the notice contains an error or omission for which the county auditor is responsible: (1) the Department of Local Government Finance may correct the error or omission at any time; (2) the maximum amount to which the Department of Local Government Finance may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount incorrectly published or omitted in the notice.

Administration of Public Funds: The bill provides that a political subdivision has two weeks (rather than one week) to respond to the Department of Local Government Finance (DLGF) if the DLGF revises the political subdivision's budget, tax rate, or tax levy. The bill provides that if a petition is not filed with a political subdivision by taxpayers objecting to a budget, tax rate, or tax levy, the DLGF must limit its review to a

determination of whether the political subdivision's tax levy complies with the property tax levy limits. The bill provides that an additional appropriation shall be treated as approved after the adoption of the ordinance or resolution making the appropriation. The bill deletes a provision authorizing the DLGF to disapprove an additional appropriation. The bill provides that a political subdivision may transfer money from one fund to another fund of the political subdivision after the adoption of an ordinance or resolution specifying the amount of the transfer, the funds involved, the date of the transfer, and the general purpose of the transfer. The bill requires the political subdivision to publish a notice of the transfer. The bill provides that the DLGF may not consult the local government tax control board when determining whether to authorize the incurring of bonded indebtedness or the executing of the lease if a sufficient petition objecting to the bond issue or the lease has not been filed. The bill provides that in addition to any publication requirements, a civil taxing unit (other than a county, first class city, or second class city) must post printed notice of a petition requesting approval from the Department of Local Government Finance to incur bonded indebtedness in three prominent places in the civil taxing unit.

Motor Vehicle Highway Account: The bill allows cities and towns to use money from the Motor Vehicle Highway Account for engineering land acquisition and for indirect costs associated with municipal street departments.

Expansion of Permissible LR&S Expenditures: The bill authorizes certain additional uses by cities, towns, and counties of money received from the local road and street account.

Local Rainy Day Fund Transfers: The bill allows transfers to the political subdivision's rainy day fund to be made at any time.

Township Borrowing Procedures: The bill provides that an appeal by a township board to borrow money to fund township assistance is made directly to the department of local government finance. The bill repeals provisions concerning appeals by townships to county commissioners and county councils for the borrowing of money for township assistance. The bill repeals provisions concerning county borrowing for township assistance. The bill repeals a provision authorizing the county fiscal body to levy property taxes and make an appropriation to advance money to a township for township assistance if the county commissioners determine that there will be insufficient money in the township assistance fund.

Northwestern Indiana Regional Planning Commission: The bill allows the Northwestern Indiana Regional Planning Commission to pay a claim or purchase order without obtaining a vendor's signature.

Local Fiscal Officer Mileage Reimbursement: It provides that a claim for reimbursement of mileage, meal, and lodging expenses to attend a State Board of Accounts conference may not be denied if the claim meets statutory requirements. It also allows a municipality to adopt an ordinance providing for meal expense advances for a municipal employee who will be traveling on official business.

Ordinance Violation Payments: The bill increases from \$100 to \$250 the amount that a violations clerk may accept for payment of ordinance violations.

Local Public Works Projects: The bill provides that the amount that may be accepted shall be set by ordinance. Increases the cost threshold at which bids are required for certain political subdivisions under the local public works statute to \$50,000. The bill repeals a related provision requiring quotes.

Municipal Matters: The bill eliminates the requirement that a city legislative body hold its first regular meeting of the year at 7:30 p.m. on a Monday, and it establishes a deadline of September 30 for a municipality to address property tax and budget matters and to set employee compensation for the following year.

Ten-Year Loan Term: The bill also increases the maximum term of a loan that a city or town may enter into from five to ten years.

Northwestern Indiana Regional Planning Commission: This bill provides that, beginning July 1, 2007, the trustee of each township in Lake, Porter, and LaPorte counties shall appoint a member to the Northwestern Indiana Regional Planning Commission if the township: (1) has a population of at least 8,000; and (2) does not contain a municipality.

Northwest Indiana Transportation Study Commission: The bill reestablishes the Northwest Indiana Transportation Study Commission. (The existing Northwest Indiana Transportation Study Commission expired November 2, 2005.)

Municipal Sewage Works: The bill authorizes a municipality to establish a sewer improvement and extension fund and impose assessments to finance the construction, repair, or improvement of a sewage works. The bill provides that assessments are imposed and collected in the same manner as Barrett Law assessments.

Lake County and Porter County Regional Bus Authority: The bill adds the following two members to the board of the regional bus authority serving Lake County and Porter County: (1) One member appointed jointly by the town board presidents of the towns of Chesterton, Porter, Burns Harbor, and Dune Acres. (2) One member appointed jointly by the township trustees of Washington, Morgan, Pleasant, Boone, Union, Porter, Jackson, Liberty, and Pine townships in Porter County. Deletes a provision specifying that members of the board from Porter County may not vote on certain issues unless Porter County makes payments to the authority.

Permit Applications: The bill provides that if a person files an application for an improvement location permit, a building permit, a certificate of occupancy, or approval of a site-specific development plan, primary or secondary plat, special exception, special use, or planned unit development with the appropriate governmental agency, the granting of the permit is governed by the statutes, ordinances, rules, development standards, and regulations in effect when the application is filed, even if before the issuance of the permit or while the permit approval process is pending the statutes, ordinances, rules, or regulations governing the granting of the permit are changed. The bill provides that: (1) a permit or approval issued or granted to a person by a governmental agency for the construction of a development, building, or structure; or (2) the person's right to construct the development, building, or structure without a permit or approval from the first governmental agency; is governed by the statutes, ordinances, rules, regulations, and approvals in effect when the person applies for any necessary permit or approval from a second governmental agency, even if before the commencement of the construction or while the permit application or approval request is pending with the second governmental agency the statutes governing the granting of the permit or approval from the first governmental agency are changed.

Newspaper Notices: The bill changes the definition of "newspaper" for purposes of the statutes concerning publication of notices.

Solid Waste Board Members: The bill provides that solid waste board members may be compensated for

attending meetings. (Under current law, members of a solid waste management advisory committee may be compensated for attending meetings.) The bill provides that the compensation for a board member or an advisory committee member may not exceed \$75 per meeting.

Township Board Salaries: The bill specifies that in a year in which there is not an election of members to the township board, the township board may by unanimous vote reduce the salaries of the members of the township board by any amount.

Municipal Redevelopment Commission Terms: The bill provides that members of a county or municipal redevelopment commission serve three year terms rather than one year terms.

Other Changes: The bill makes other changes concerning local government.

Effective Date: Upon passage; July 1, 2006.

Explanation of State Expenditures: (Revised) *Administration of Public Funds:* Under current law, the officers of each taxing unit must adopt a budget, tax rate, and levy at a public meeting. Within 10 days of the taxing unit's meeting, at least 10 taxpayers may file an objection to the budget, tax rate, or levy. At least two days before the first meeting of the county board of tax adjustment (TAB), each civil taxing unit must file with the county auditor (1) a statement of the tax rate and levy and (2) copies of any adopted findings related to taxpayer objections.

Within 10 days after the publication of the TAB's notice of tax rates, at least 10 taxpayers or the owners of at least 10% of the AV in the unit may object to the TAB's action by initiating an appeal. The DLGF must hold a hearing on the objection. The DLGF must also hold a public hearing on each taxing unit's budget, tax rate, and levy after local adoption. The hearing on the objection may be held in conjunction with the hearing on the budget, tax rate, and levy.

Under this proposal, the DLGF would not be permitted to hold its public hearing on a civil taxing unit's budget, tax rate, and levy if taxpayers do not file an objection after the initial adoption. The DLGF would be required only to review the budget, tax rate, and levy to ensure compliance with statutory levy limits.

This provision could reduce DLGF costs for holding these hearings on site in the counties.

County Auditor Notices: Currently, if a county auditor publishes a notice containing an error or omission related to a tax rate, tax levy, or budget of a political subdivision in the county, the taxing unit has ten days from the date of publication in which to file a statement with the state Department of Local Government Finance (DLGF) to initiate an appeal. This provision will allow the DLGF to correct such an error or omission at any time. Removing the ten-day limit could potentially lead to the initiation of more appeals and increase the administrative work load of the DLGF. The DLGF should be able to implement this provision given its existing level of resources.

Northwest Indiana Transportation Study Commission: The bill would reestablish the 14-member Northwest Indiana Transportation Study Commission, which would consist of 12 legislators and two lay members. The Commission would operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members. The fund affected is the state General Fund.

The Commission would be charged to do the following:

- (1) monitor the development of commuter transportation and rail service in the Lowell-Chicago and Valparaiso-Chicago corridors;
- (2) study all aspects of regional mass transportation and road and highway needs in Lake County, Porter County, LaPorte County, St. Joseph County, and Elkhart County;
- (3) study northwest Indiana transportation, infrastructure, and economic development issues; and
- (4) study other topics as assigned by the Legislative Council.

The Commission would submit in an electronic format a final report of the Commission's findings and recommendations to the Legislative Council before November 1, 2009.

Explanation of State Revenues: (Revised) *Ordinance Violation Payments*: This provision could result in the loss of revenue to state funds of \$36,000 to \$74,000.

During CY 2004, 21 counties with trial courts and 28 city and town courts reported having ordinance violations bureaus. Assuming that no new ordinance violations bureaus are established because of this new language, between 400 and 2,000 cases that were disposed through either bench dispositions or guilty plea admissions in 2004 could be disposed in local ordinance bureaus.

Local ordinance violations can be disposed when filed in either trial courts or city or town courts. The *2004 Judicial Report* indicates the following for dispositions of local ordinance violations in trial courts and city and town courts.

Counties and Municipalities in Which Local Ordinance Violations Cases Were Disposed by Violations Bureaus in CY 2004			
	Number with Local Ordinance Violations Bureaus	Cases Disposed in Local Ordinance Violations Bureaus	Cases Disposed by Either Bench Disposition or by Guilty Plea or Admission
Trial Courts	21	33,332	2,048
City and Town Courts	28	6,600	1,999

Cases disposed through local ordinance violations bureaus are not subject to the following fees under IC 33-37-4-2.

Fees Deposited in the State Funds		
<u>General Fund</u>	<u>Trial Courts</u>	<u>City and Town Courts</u>
Infraction or Ordinance Violations Fee	\$49	\$38.50
Public Defense Administration Fee	\$3	\$3
Judicial Insurance Adjustment Fee	\$1	\$1
Judicial Salaries Fee	\$15	\$15
DNA Sample Processing Fee	\$1	\$1
Court Administration Fee	<u>\$2</u>	<u>\$2</u>
<i>Total in State General Fund</i>	<i>\$71</i>	<i>\$61</i>
<u>State User Fee Fund:</u>		
Automated Record Keeping Fee	<u>\$7</u>	<u>\$7</u>
Total Fees	<u>\$78</u>	<u>\$68</u>

Consequently, a revenue loss would occur to both the state General Fund and the State User Fee Fund if more cases are exempt from these fees. The loss depends on the number of courts that use local ordinance violations bureaus for disposing cases and how many cases that are now disposed through court appearances would now be exempt because the civil penalty is greater than \$100 and less than \$500. These are both unknown factors.

For this analysis, it is assumed that:

1. no new local ordinance violations bureaus will be established; and
2. that between 12.5% and 25% of these cases disposed in 2004 through either a bench disposition or a guilty plea or admission could instead be disposed in a local ordinance violations bureau.

If more local ordinance violations bureaus are established, then a greater revenue loss could occur.

Based on this assumption, state revenue loss is calculated to be between \$36,000 and \$74,000.

Estimated Revenue Loss if 12.5% to 25% of Cases are Shifted to Local Ordinance Violations Bureaus				
<u>Type of Court</u>	<u>Potential Number of Cases</u>	<u>Total Fee</u>	<u>Percent of Cases</u>	
			<u>at 25%</u>	<u>at 50%</u>
Trial Courts	2048	\$78	\$19,968	\$39,936
City and Town Courts	1999	\$68	\$16,992	\$33,983
Total Revenue Loss			<i>\$36,960</i>	<i>\$73,920</i>

Explanation of Local Expenditures: (Revised) *Notice Publication Procedures:* Currently, the notice publication procedures for cities and towns vary depending on the event that is being published. Provisions in this bill set a uniform requirement of providing notice for an event two times, at least one week apart, with the second publication occurring at least seven days before the event. The fiscal impact of these provisions will depend on how current publication procedures differ from the uniform requirement.

County Auditor Notices: This bill also requires the county to hold harmless the political subdivision from any

loss of revenue that results from certain publication error or omissions. County expenses could potentially increase under this provision.

Northwestern Indiana Regional Planning Commission: Requiring the Northwestern Indiana Regional Planning Commission to follow the same general claim payment policies as the state could affect local expenditures if following state policies would have an impact on the timing of the payment which could have an impact on the expense. The impact is indeterminable and will depend on existing local policies.

Local Fiscal Officer Mileage Reimbursement: This provision of the bill is intended to clarify that mileage shall be reimbursed for attending conferences of the State Board of Accounts. The fiscal impact is dependent on the number of local units that have interpreted the reimbursement to be optional, how often reimbursements are required to be paid, and the amount of such reimbursements.

Public Works Projects: By increasing the cost threshold of public works projects that do not require political subdivisions to receive bids or quotes, this provision has the potential of reducing project costs. The potential reduction in cost could result from a political subdivision's decision to purchase its own materials and have its own workforce carry out a project using its own or leased equipment. This provision affects public works projects costing less than \$50,000 in certain political subdivision's as specified in the bill. (Under current law, the threshold for these subdivisions is \$25,000.)

Local Rainy Day Fund Transfers: Under the bill, a political subdivision would be able to transfer money to their rainy day funds at any time during the subdivision's fiscal year. Under current law, transfers may only be made after the last day of the fiscal year and before March 1 of the following calendar year. The impact of this provision to subdivision expenditures would depend on local action.

Municipal Matters: Under current law, the city executive must fix the budget, levy, and compensation of each appointive officer, deputy, and other employee of the city. Compensation must be fixed before September 20 for a third class city and September 30 for a second class city. The proposal changes this deadline to September 30. The bill also provides that the compensation of a town officer must be fixed before October 1 of each year for the ensuing budget year. Under current law, no deadline is specified. The above provisions should have no significant fiscal impact.

Ten-Year Loan Term: Increasing the maximum loan term for cities and towns will allow for more flexibility. However, interest expenses will also increase. The fiscal impact of this provision is dependent on local action.

Northwestern Indiana Regional Planning Commission: The provision would increase local expenditures. The exact amount of additional expenditures would depend on the number of new members appointed to the Commission. Under current law, members of the Commission serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

Lake County and Porter County Regional Bus Authority: The bill adds two members to the Regional Bus Authority of Lake and Porter Counties. The provision will increase expenditures from Lake and Porter County General Funds. Under current law, members are allowed mileage and duty expenses. (Lake County members are allowed to receive mileage reimbursement under state employee travel guidelines or as designated under county ordinance.)

Permit Applications- Under the bill, an application for a permit that meets existing standards could not be

rejected simply due to a rule change by either ordinance, rule, regulation, once the permit is in the review process.

Motor Vehicle Highway Account: The bill does not change the total amount of Motor Vehicle Highway Account (MVHA) funds to be distributed to cities and towns. The bill would allow part of the distribution to be used, in addition to current uses, for engineering, land acquisition, and for indirect costs associated with municipal street departments. Additionally, the bill would allow cities and towns to combine their MVHA funds with their Local Road and Street funds. Below is a table which shows the appropriations from the MVHA to cities and towns for the last three fiscal years.

	FY 2003	FY 2004	FY 2005
MVHA Appropriation to Cities and Towns	\$ 86.3 M	\$ 98.7 M	\$ 98.5 M

Expansion of Permissible LR&S Expenditures: The bill expands the purposes for which Local Road and Street (LR&S) funds may be used to include the following:

- (1) oiling, sprinkling, snow removal, weed and tree cutting, and cleaning of highways, including any curbs;
- (2) the city's or town's share of the cost of separation of the grades of crossing of public highways and railroads;
- (3) the purchase, erection, operation, and maintenance of traffic signs and signals and safety zones and devices; and
- (4) the painting of structures, objects, and surfaces in highways for the purposes of safety and traffic regulation.

Background Information: Over the last five fiscal years, local units (cities, towns, and counties) have received, on average, \$77.9 M per year from distributions from the Local Road and Street Account.

Solid Waste Board Members: Local solid waste board members would be entitled to compensation. Payment of board members and advisory committee members would not be allowed to exceed \$75 per meeting.

Township Board Salaries: Were a township board to elect to reduce board salaries, there would be a savings to township funds, which could be reallocated for other approved uses.

Explanation of Local Revenues: (Revised) *Ordinance Violation Payments* -- This provision could result in a revenue loss of between \$34,000 and \$68,000.

Four fees that are charged for local ordinance violations would not be paid if a case is disposed through a local ordinance violations bureau. A portion of the ordinance violations fee is deposited in the local general fund, while three fees are deposited in dedicated funds in counties and municipalities:

Fees Deposited in the County and Municipal Funds		
<u>Local General Fund</u>	<u>Trial Courts</u>	<u>City /Town Courts</u>
Infraction or Ordinance Violations Fee	\$21	\$31.50
<u>Dedicated Funds:</u>		
Law Enforcement Continuing Education Fee	\$3	\$3
Jury Fee	\$2	\$2
Document Storage Fee	\$2	\$2
<i>Total in All County and Municipal Funds</i>	<u>\$28</u>	<u>\$39</u>

Using the same assumptions used for calculating the state revenue loss, the following table shows that the potential lost revenue for counties and municipalities would be between \$17,000 and \$34,000.

Estimated Revenue Loss if 12.5% to 25% of Cases are Shifted to Local Ordinance Violations Bureaus				
<u>Type of Court</u>	<u>Potential Number of Cases</u>	<u>Total Fee</u>	<u>Percent of Cases</u>	
			<u>at 12.5%</u>	<u>at 25%</u>
Trial Courts	2,048	\$28	\$7,168	\$14,336
City and Town Courts	1999	\$39	\$9,745	\$19,490
Total Revenue Loss			<u>\$16,913</u>	<u>\$33,827</u>

County Auditor Notices: Removing the ten-day limit on initiating an appeal with the DLGF should make it easier for a taxing unit to correct errors and omissions in notices related to the tax rate, tax levy, or budget of a political subdivision.

Municipal Sewage Works: Under the bill, a municipality would be able established a sewer improvement and extension fund. The municipality would be able to deposit into the fund special assessments, appropriations from the municipal general fund, and from taxes levied for the construction, repair, extension or improvement of a sewage works. The bill provides that an assessment must be imposed and collected in the same manner as provided in street and sewer improvement statutes. Assessment payment periods would not be allowed to exceed 20 years. The impact of this bill to local revenues would be dependent on local action.

Administration of Public Funds: The bill makes changes in laws governing the adoption of budgets, tax rates, tax levies, and the administration of public funds. Under existing law, after the DLGF proposes adjustments to a unit's levy or tax rate, the unit has one week to specify how the unit will make the reductions in the amount budgeted by fund. The bill provides that the unit has two weeks to respond. The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item which the DLGF might be in error. This provision could result in more latitude for local units in responding to budget reductions proposed by the DLGF. The specific impact is indeterminable.

If a petition objecting to the unit's budget is not filed with the proper officers of a unit, the DLGF may not conduct a public hearing and must limit its review to a determination as to whether the unit's proposed levy complies with maximum permissible levy limits. This provision could decrease objections to local budgets. The impact would be that local budgets and revenues would likely not be decreased as they might have been with a petition.

Under the bill, after a unit holds a public hearing on an additional appropriation, the unit must send a certified copy of their final proposal and any relevant information with the DLGF. The additional appropriation may not have the effect of increasing the approved tax rate or levy and must be supported by sufficient revenues on hand or unobligated revenues. The additional appropriation will be treated as approved following the adoption of the ordinance or resolution making the appropriation. These provisions could make more revenue available for spending for the local units.

The bill provides that local units may transfer money from one fund to another fund after the adoption of an ordinance or resolution. The unit must publish a notice of a transfer. This provision will allow money from funds to be used for the purposes of other funds which will allow local units to adjust purposes for which the revenue is spent.

The bill provides that the DLGF may not consult with the Local Government Tax Control Board when determining whether to authorize bonded indebtedness, if certain procedures relative to filing an objection are not followed. It is likely that the impact of this provision will result in additional authorization to incur bonded indebtedness because it is possible that fewer objections could be considered.

Township Borrowing Procedures: This provision changes township borrowing procedures for the Poor Relief program. Under current law, if a township is required to make an emergency loan for purposes other than Poor Relief, the township board must approve the loan, publish notice of the loan approval, and then obtain the approval of the DLGF. However, for situations involving Poor Relief, the township must request of the county to borrow or provide the money. If the county refuses, the township must go before the DLGF. This bill removes the county from the borrowing process so that borrowing for Poor Relief is done in the same manner as other township borrowing.

State Agencies Affected: Department of Local Government Finance; Legislative Services Agency; Legislative Council.

Local Agencies Affected: Counties, cities, towns; Northwest Indiana Regional Planning Commission; Municipal utilities; Northwestern Indiana Regional Planning Commission; Lake County and Porter County Regional Bus Authority; township boards; solid waste boards/advisory commissions.

Information Sources: Bob Harris, DLGF; *Indiana Judicial Report 2004*.

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